

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

<b>DALE E. HARPER,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-12-449-HE</b>
	)	
<b>JAMES RUDEK, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**REPORT AND RECOMMENDATION**

At issue are Plaintiff's "Motion to Compel" [Doc. No. 59] and the "Motion for Protective Order" [Doc. No. 43] filed by Defendants Ainsworth, Bearden, and Chester, who are employees of the Lawton Correctional Facility (LCF). These LCF Defendants have filed a "Motion to Dismiss/Motion for Summary Judgment" [Doc. No. 42] and Plaintiff has responded with both a "Declaration in Opposition to Defendants Motion for Summary Judgment" [Doc. No. 52] and a "Brief in Opposition to Defendants Summary Judgment Motion" [Doc. No. 54]. The undersigned has recommended granting the LCF Defendants' motion. *See* Report and Recommendation [Doc No. 68].

Upon review of Plaintiff's responses and requested discovery, the undersigned concluded that nothing in the request would have affected the recommended disposition of the LCF Defendants' motion. Therefore, if the recommendation [Doc. No. 68] is adopted, it is further recommended that both Plaintiff's "Motion to Compel" and Defendants' "Motion for Protective Order" be denied as moot.

The parties are advised that any objection to this Report and Recommendation must be filed February 28, 2013, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Failure to make timely objection to this Report and Recommendation waive the right to appellate review of both factual and legal issues contained herein. *Moore v. United States*, 950 F.2d 656 (10<sup>th</sup> Cir. 1991).

This Report and Recommendation does not dispose of all issued referred to the Magistrate Judge in this matter.

**Entered this 13<sup>th</sup> day of February, 2013.**

  
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BANA ROBERTS  
UNITED STATES MAGISTRATE JUDGE